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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,609	11/20/2001	Colin John Taylor	MAR-0010	3445

7590 10/16/2002

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[REDACTED] EXAMINER

JAKEL, KEVIN W

ART UNIT	PAPER NUMBER
3643	

DATE MAILED: 10/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

<b>Office Action Summary</b>	Application N .	Applicant(s)
	09/989,609	TAYLOR, COLIN JOHN
	Examiner Kevin W Jakel	Art Unit 3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_.  
 2a) This action is FINAL.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-24 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_ is/are allowed.  
 6) Claim(s) 1-7, 9, 19, 20 and 22-24 is/are rejected.  
 7) Claim(s) 8, 10-18, 21 is/are objected to.  
 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

PETER M. POON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3300  
*fwp*

**Application Papers**

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 11) The proposed drawing correction filed on \_\_\_\_ is: a) approved b) disapproved by the Examiner.  
     If approved, corrected drawings are required in reply to this Office action.  
 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.  
 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
     a) The translation of the foreign language provisional application has been received.  
 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7 and 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Flasch, Jr. (US 5852896).

Regarding claims 1 and 24, Flasch teaches a reservoir and a planter where the drainage of the planter is isolated from the reservoir. (figure 1).

Regarding claim 2, Flasch teaches a planter base with extends upward forming the wall of the reservoir. (figure 1).

Regarding claim 3, Flash teaches a planter in the shape of a round trough where the base of the planter is recessed from the outer edge of the apparatus. (figure 1).

Regarding claim 4, Flasch teaches the drainage passing through the reservoir considering the reservoir surrounds the planter. (figure 1).

Regarding claim 5, Flasch teaches forming the drainage passage integrally with the planter base.

Regarding claim 6, Flasch teaches forming the drainage passage integrally with the reservoir.

Regarding claim 7, Flasch teaches a drainage passage that at first is connected to the planter and then passes through a formed object with forms the reservoir satisfying the limitations of this claim.

Regarding claim 22, Flasch teaches a multiplicity of drainage passages intended to receive growing medium.

Regarding claim 23, Flasch teaches the use of legs to support the planter and reservoir. (figure 1).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 9, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flasch Jr. (US 5852896).

Regarding claim 9, Flasch fails to specifically disclose the use of moulding. However, moulding is notoriously well known in the art as a method of producing planters. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use moulding to produce a cheap efficient planter.

Regarding claim 19, Flasch fails to specifically teach the planter and reservoir formed of one piece. However, it is notoriously well known in the art to form such simple objects out of one piece of moulded plastic. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form

the planter and reservoir out of a single piece in order to reduce construction time and assembly costs.

Regarding claim 20, Flasch as modified above teaches the limitations of this claim.

***Allowable Subject Matter***

5. Claims 8, 10-18, and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are drawn to planters: 5044120, 4745707, 5509232, 6109827, 6125579, 5966868, and 6173530.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin W Jakel whose telephone number is (703) 306-5753. The examiner can normally be reached on M-Th and every other F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M Poon can be reached on (703) 308-2574. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3597 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Art Unit: 3643

Kevin Jakel

GAU 3643  
October 7, 2002



Peter M. Poon  
PETER M. POON  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600